

DATED

26 September

2014

(1) ALEXANDER HEINI PHILIP MIDGEN and KAREN ESTHER MIDGEN

-and-

**(2) THE MAYOR AND THE BURGESSES OF
THE LONDON BOROUGH OF CAMDEN**

SECOND DEED OF VARIATION

Relating to the Original Agreement dated 2 February 2012 (as varied by the First Deed of Variation dated 11 December 2013)

between

the Mayor and the Burgesses of the
London Borough of Camden

and

Alexander Heini Philip Midgen and Karen Esther Midgen

under section 106 of the Town and
Country Planning Act 1990 (as amended)
Relating to development at premises known as

18 Redington Road London NW3 7RG

Andrew Maughan
Head of Legal Services
London Borough of Camden
Town Hall
Judd Street
London WC1H 9LP

Tel: 020 7974 1918
Fax: 020 7974 2962

CLS/COM/ESA/1685.2744
FINAL



THIS DEED is made on the 26th day of September 2014

BETWEEN

1. **ALEXANDER HEINI PHILIP MIDGEN and KAREN ESTHER MIDGEN** of 18 Redington Road, London NW3 7RG (hereinafter called "the Owner") of the first part
2. **THE MAYOR AND BURGESSES OF THE LONDON BOROUGH OF CAMDEN** of Town Hall, Judd Street, London WC1H 9LP (hereinafter called "the Council") of the third part

WHEREAS:

- 1.1 The Council, Alexander Heini Philip Midgen and Karen Esther Midgen entered into an Agreement dated 2 February 2012 pursuant to Section 106 of the Town and Country Planning Act 1990 (as amended).
- 1.2 The Council and Alexander Heini Philip Midgen and Karen Esther Midgen entered into an Agreement dated 11 December 2013 pursuant to section 106A of the Town and Country Planning Act 1990 (as amended) to vary the terms of the Original Agreement.
- 1.3 The Owner is registered at the Land Registry as the freehold proprietor with Title Absolute under title number 24639.
- 1.4 The Owner is the freehold owner of and is interested in the Property for the purposes of Section 106(9) of the Act.
- 1.5 The Council is the local planning authority for the purposes of the Act and considers it expedient in the interests of the proper planning of its area that the Development of the Property should be restricted or regulated in accordance with this Deed.
- 1.6 A new Planning Application in respect of the Property and to amend the Original Planning Permission as varied by the Second Planning Permission was submitted to the Council by the Owner and validated on 23 April 2014 for which the Council resolved to grant permission conditionally under reference 2014/2877/P subject to the conclusion of this Deed.

1.7 This Deed of Variation is made by virtue of the Town and Country Planning Act 1990 Section 106A (as amended) and is a planning obligation for the purposes of that section.

1.8 Without prejudice to the terms of the other covenants contained in the Original Agreement the parties hereto have agreed to vary the terms of the Original Agreement as hereinafter provided.

2. **INTERPRETATION**

2.1 All words and phrases defined in the Original Agreement shall have the same meaning in this Deed save where the context otherwise dictates and for the avoidance of any doubt the Original Agreement shall remain in full force and effect save as varied by this Deed.

2.2 All references in this Agreement to clauses in the Original Agreement are to clauses within the Original Agreement as varied by the First Deed of Variation.

2.3 Where in this Deed reference is made to a clause schedule or recital such reference (unless the context otherwise requires) is a reference to a clause schedule or recital of this Agreement.

2.4 Headings are for ease of reference only and are not intended to be construed as part of this Deed and shall not be construed as part of this Agreement and shall not effect the construction of this Deed.

2.5 Unless the context otherwise requires references to the singular shall include the plural and vice versa.

2.6 It is hereby agreed between the Parties that save for the provisions of clauses 1, 2, 3, 5 and 6 hereof all of which shall come into effect on the date hereof the covenants undertakings and obligations contained within this Deed shall become binding upon the Owner upon the Implementation Date.

2.7 References in this Deed to the Owner shall include their successors in title.

2.8 In this Deed the following expression shall unless the context otherwise states have the following meaning now allocated to it.

2.8.1 "this Agreement" this Second Deed of Variation made pursuant to Section 106A of the Act

2.8.2 "the First Deed of Variation" the deed of variation under Section 106A of the Town and Country Planning Act 1990 (as amended) dated 11 December 2013 made between Council and Alexander Heini Philip Midgen and Karen Esther Midgen

2.8.3 "Original Agreement" the Section 106 Agreement under the Town and Country Planning Act 1990 (as amended) dated 2 February 2012 made between the Council and Alexander Heini Philip Midgen and Karen Esther Midgen

2.8.4 "the Original Planning Permission" the planning permission granted on 14 March 2012 by an inspector appointed by the Secretary of State pursuant to appeal reference APP/X5210/A/11/2161172 for demolition of an existing building and construction of a new build detached family house as shown on the approved drawings

2.8.5 "the Second Planning Permission" the planning permission granted by the Council on 11 December 2013 referenced 2013/4791/P permitting amendments to previously approved scheme variation of the "the Development" (the redevelopment of the Property comprising (i) in respect of the Planning Permission: the erection of a new single dwelling house (Class C3) following the demolition of existing dwelling

house namely to allow amendments to building position, depth, fenestration design and configuration, chimney position, quoining and soft landscaping as shown on drawing numbers Location plan; 001; 002; 003; 100; 101; 102; 103; 104; 105; 106; 107; 108; 200; 201; 202 Rev 01; 203 Rev 01; 204 Rev 01; 205 Rev 01; 206; 207 Rev 01; 208 Rev 01; 209 Rev 01; 300; 301; 400; Code for sustainable home (Pre-Assessment); Design quality statement; Tree survey and arboricultural method assessment; Planning statement; Heritage and urban design appraisal; Structural and hydrology report) to provide variation of condition 6 (works to be carried in accordance with approved plans) of the planning permission granted on 14th March 2012 by an inspector appointed by the Secretary of State pursuant to appeal reference APP/X5210/A/11/2161172 permitting amendments to building position, depth, fenestration design and configuration, chimney position, quoining and soft landscaping as shown on drawing numbers C-001; C-002; C-003 Rev01; C-200 Rev01; C-201; C-202; C-203; C-204; C-205 Rev01; C-206; C-207; C-208 Rev01; 209; C-210; Proposed landscape plan 13th May 2013

3. VARIATION TO THE ORIGINAL AGREEMENT

3.1 The following definitions contained in the Original Agreement as varied by the First Deed of Variation shall be varied as follows:

3.1.1 "Development" variation of condition 1 of planning permission 2013/4791/P (works in accordance with approved plans) granted on 11/12/2013, namely, amendments to building position,

depth, fenestration design and configuration, along with changes to chimney position and garage door details. as shown on drawing numbers: - Site location plan; 09/220/001; 002; 003; 100; 101; 102; 103; 104; 105; 106; 107; 108; 109; 13/220-C-001 Rev 01; C-002 Rev 01; C-003 Rev 02; 13/220/C-200 Rev02; C-201 Rev 01; C-202 Rev 01; C-203 Rev 01; C-204 Rev 01; C-205 Rev 02; C-206 Rev 01; C-207 Rev 01; C-208 Rev 02; C-209 Rev 01; C-210 Rev 01; Code for sustainable homes (Pre-Assessment) by PhaConsult dated September 2010; Design quality statement by Design Solutions; Tree survey and arboricultural method assessment by Martin Dobson Associated dated September 2010; Planning statement; Heritage and urban design appraisal; Structural and hydrology report by Morrish dated Feb 2011; Basement Impact Assessment report by RSK (25250-01) dated 2011; Letters from RSK dated July 2013 and April 2014; Letter from KM Heritage dated April 2014

3.1.2 "Planning Permission"

the definition of "Planning Permission" shall be amended by adding the following words at the end: "as amended by the planning permission under reference number 2014/2877/P to be issued by the Council in the form of the draft annexed hereto"

3.1.3 "Planning Application"

the application for Planning Permission in respect of the Property submitted on 23 April 2014 by the Owner and given reference number 2014/2877/P

- 3.2 All references in Clause 5 and Clause 6 of the Original Agreement (as varied by the First Deed of Variation) to “Planning Permission reference 2010/5099/P” shall be replaced with “Planning Permission reference 2014/2877/P”.
- 3.3 The draft planning permission reference 2014/2877/P annexed to this Agreement shall be treated as annexed to the Original Agreement as varied by the First Deed of Variation in addition to the original annexures.
- 3.4 In all other respects the Original Agreement (as varied by the First Deed of Variation and this Deed) shall continue in full force and effect.

4. **COMMENCEMENT**

- 4.1 Without prejudice to the effect of Clause 3.5 in the Original Agreement the provisions in this Deed shall take effect on the Implementation of the Planning Permission referenced 2014/2877/P.

5. **PAYMENT OF THE COUNCIL'S LEGAL COSTS**

- 5.1 The Owner agrees to pay the Council (on or prior to completion of this Deed) its reasonable legal costs incurred in preparing this Deed

6. **REGISTRATION AS LOCAL LAND CHARGE**

- 6.1 This Deed shall be registered as a Local Land Charge

CONTINUATION OF SECOND DEED OF VARIATION IN RELATION TO 18 REDINGTON ROAD LONDON NW3 7RG

IN WITNESS WHEREOF the Council has caused its Common Seal to be hereunto affixed and the Owner have executed this instrument as their Deed the day and year first before written

EXECUTED AS A DEED BY
ALEXANDER HEINI PHILIP MIDGEN
in the presence of:-

)
)
) *Phil Midgen*

Peter Everest
.....
Witness Signature

Witness Name PETER EVEREST

Address 41 COLERAINE ROAD, LONDON, SE3 7PF

Occupation INVESTMENT BANKER

EXECUTED AS A DEED BY
KAREN ESTHER MIDGEN
in the presence of:-

)
)
) *Midgen*

Peter Everest
.....
Witness Signature

Witness Name PETER EVEREST

Address 41 COLERAINE ROAD, LONDON, SE3 7PF

Occupation INVESTMENT BANKER

THE COMMON SEAL OF THE MAYOR
AND BURGESSES OF THE LONDON
BOROUGH OF CAMDEN
was hereunto affixed by Order:-

)
)
)
)



R. Alexander
.....
Duly Authorised Officer



DP9
100 Pall Mall
London
SW1Y 5NQ

Tel 020 7974 4444
Fax 020 7974 1930
Textlink 020 7974 6866

planning@camden.gov.uk
www.camden.gov.uk/planning

Application Ref: **2014/2877/P**

18 September 2014

Dear Sir/Madam

DRAFT
FOR INFORMATION ONLY - THIS IS NOT A FORMAL DECISION
Town and Country Planning Act 1990 (as amended)

DECISION SUBJECT TO A SECTION 106 LEGAL AGREEMENT

Address:
18 Redington Road
London
NW3 7RG

DECISION
Proposal:
Variation of condition 1 of planning permission 2013/4791/P (works in accordance with approved plans) granted on 11/12/2013, namely, amendments to building position, depth, fenestration design and configuration, along with changes to chimney position and garage door details.

Drawing Nos: Site location plan; 09/220/001; 002; 003; 100; 101; 102; 103; 104; 105; 106; 107; 108; 109; 13/220-C-001 Rev 01; C-002 Rev 01; C-003 Rev 02; 13/220/C-200 Rev02; C-201 Rev 01; C-202 Rev 01; C-203 Rev 01; C-204 Rev 01; C-205 Rev 02; C-206 Rev 01; C-207 Rev 01; C-208 Rev 02; C-209 Rev 01; C-210 Rev 01; Code for sustainable homes (Pre-Assessment) by PhaConsult dated September 2010; Design quality statement by Design Solutions; Tree survey and arboricultural method assessment by Martin Dobson Associated dated September 2010; Planning statement; Heritage and urban design appraisal; Structural and hydrology report by Morrish dated Feb 2011; Basement Impact Assessment report by RSK (25250-01) dated 2011; Letters from RSK dated July 2013 and April 2014; Letter from KM Heritage dated April 2014.

The Council has considered your application and decided to grant permission subject to the conditions and informatives (if applicable) listed below **AND** subject to the successful conclusion of a Section 106 Legal Agreement.

The matter has been referred to the Council's Legal Department and you will be contacted shortly. If you wish to discuss the matter please contact **Aidan Brookes** in the Legal Department on **020 7 974 1947**.

Once the Legal Agreement has been concluded, the formal decision letter will be sent to you.

Condition(s) and Reason(s):

- 1 Condition 6 of planning permission granted on appeal under reference numbers APP/X510/E/11/2161172 & APP/X510/E/11/2161175 (2010/5113/C & 2010/5099/P) shall be replaced by the following condition:

REPLACEMENT CONDITION 2

The development hereby permitted shall be carried out in accordance with the following approved plans: Site location plan; Site location plan; 09/220/001; 002; 003; 100; 101; 102; 103; 104; 105; 106; 107; 108; 109; 13/220-C-001 Rev 01; C-002 Rev 01; C-003 Rev 02; 13/220/C-200 Rev02; C-201 Rev 01; C-202 Rev 01; C-203 Rev 01; C-204 Rev 01; C-205 Rev 02; C-206 Rev 01; C-207 Rev 01; C-208 Rev 02; C-209 Rev 01; C-210 Rev 01; Code for sustainable homes (Pre-Assessment) by PhaConsult dated September 2010; Design quality statement by Design Solutions; Tree survey and arboricultural method assessment by Martin Dobson Associated dated September 2010; Planning statement; Heritage and urban design appraisal; Structural and hydrology report by Morrish dated Feb 2011; Basement Impact Assessment report by RSK (25250-01) dated 2011; Letters from RSK dated July 2013 and April 2014; Letter from KM Heritage dated April 2014.

Reason: For the avoidance of doubt and in the interest of proper planning.

Informative(s):

- 1 You are reminded that the conditions relating to the original planning permission 2010/5099/P, which was approved by the planning inspectorate, are outstanding and require details to be submitted.

In dealing with the application, the Council has sought to work with the applicant in a positive and proactive way in accordance with paragraphs 186 and 187 of the National Planning Policy Framework.

Yours faithfully

Culture and Environment Directorate



DATED

26 September

2014

(1) ALEXANDER HEINI PHILIP MIDGEN and KAREN ESTHER MIDGEN

-and-

**(2) THE MAYOR AND THE BURGESSES OF
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